

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

MARTÍN JONATHAN BATALLA VIDAL,
et al.,

Plaintiffs,

V.

ELAINE C. DUKE, *et al.*,

Defendants.

No. 1:16-cv-04756 (NGG) (JO)

STATE OF NEW YORK, *et al.*,

Plaintiffs,

V.

DONALD TRUMP, *et al.*,

Defendants.

No. 1:17-cv-05228 (NGG) (JO)

UNOPPOSED MOTION TO ADJOURN STATUS CONFERENCES

In accordance with the Court's September 27, 2017 Case Management and Scheduling Order, *Batalla Vidal* ECF No. 67, and the Court's scheduling orders of October 2, 2017, October 11, 2017, October 23, 2017, and November 6, 2017, Defendants respectfully request that the status conferences in these matters currently scheduled for November 30, 2017 and December 13, 2017 be adjourned indefinitely. As good cause for this request, which Plaintiffs do not oppose, Defendants offer the following:

1. Two regularly scheduled status conferences in these matters are set for November 30, 2017 and December 13, 2017. The purpose of these status conferences is to discuss any pending discovery (or administrative record) disputes between the parties.

2. In the Court's September 27, 2017 Minute Order, the Court contemplated that the parties would request adjournment or cancellation of these status conferences if they proved to be unnecessary. *See* Sept. 27, 2017 Order § III(a) ("If there are no pending disputes requiring court intervention, I will entertain a joint application to adjourn or cancel the conference.").

3. On October 20, 2017, the United States Court of Appeals for the Second Circuit issued an order staying all "discovery and record supplementation" in these matters pending further consideration of Defendants' petition for a writ of mandamus. *See* Order, *In re Duke*, No. 17-3345 (2d Cir. Oct. 20, 2017) (Cabranes, J.), *Batalla Vidal* ECF No. 91.

4. On October 24, 2017, a three-judge panel of the Court of Appeals extended that stay "until determination of the mandamus petition" filed by the government, and also noted that "[r]esolution of the mandamus petition is deferred until such time as the District Court has considered and decided expeditiously issues of jurisdiction and justiciability." *See* Order, *In re Duke*, No. 17-3345 (2d Cir. Oct. 24, 2017), *Batalla Vidal* ECF No. 99.

5. On November 9, 2017, the district court granted in part, denied in part, and reserved decision in part on Defendants' motion to dismiss. *See Batalla Vidal* ECF No. 104.

6. On November 20, 2017, the Court of Appeals scheduled oral argument on the government's mandamus petition for December 14, 2017. Notice of Motion Placed on the Calendar, *In re Duke*, No. 17-3345 (2d Cir. Nov. 20, 2017).

7. Because all discovery and record supplementation have been stayed by the Court of Appeals, there are currently no active discovery or record-related disputes to be resolved by this Court, and therefore there is currently no need for either of the two upcoming status conferences.

8. If, at some future date, the Court of Appeals lifts its stay, Defendants are willing to confer promptly with both sets of Plaintiffs and jointly propose another date (or dates) for a status conference (or conferences) to discuss further proceedings in these matters.

9. Granting the requested relief will not effect any other deadlines.

10. This is the third request for an adjournment in these matters. On October 23, 2017, this Court granted a similar request, *Vidal* ECF No. 92, with respect to the status conference that had been scheduled for October 25, 2017. And on November 6, 2017, this Court granted another similar request, *Vidal* ECF No. 103, with respect to the status conference that had been scheduled for November 8, 2017.

11. Undersigned counsel for Defendants contacted counsel for each group of Plaintiffs before filing this motion. The *State of New York* Plaintiffs reported that they “consent to [Defendants’] request to seek an adjournment of those two status conferences.” The *Batalla Vidal* Plaintiffs reported that they “do not oppose [Defendants’] request to seek to adjourn the two upcoming status conferences.”

Dated: November 27, 2017

Respectfully submitted,

CHAD A. READLER
Principal Deputy Assistant Attorney General

BRIDGET M. ROHDE
Acting United States Attorney

BRETT A. SHUMATE
Deputy Assistant Attorney General

JENNIFER D. RICKETTS
Director, Federal Programs Branch

JOHN R. TYLER
Assistant Branch Director

BRAD P. ROSENBERG
Senior Trial Counsel

/s/ Stephen M. Pezzi
STEPHEN M. PEZZI (D.C. Bar #995500)
KATE BAILEY
Trial Attorneys
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Ave., N.W.
Washington, DC 20530
Tel.: (202) 305-8576
Fax: (202) 616-8470
Email: stephen.pezzi@usdoj.gov

JOSEPH A. MARUTOLLO
Assistant U.S. Attorney
United States Attorney's Office
Eastern District of New York
271-A Cadman Plaza East, 7th Floor
Brooklyn, NY 11201
Tel: (718) 254-6288
Fax: (718) 254-7489
Email: joseph.marutollo@usdoj.gov

Counsel for Defendants